

### REMARKS

Favorable consideration of this Response and Request for Reconsideration and in light of the following discussion is respectfully requested.

Claims 31-36 are pending in the present Application. No new matter has been added.

By way of summary, the Official Action indicates that Claims 1-30 are pending in the present Application. **Applicants, however, filed a Preliminary Amendment with the Application papers on August 3, 2001 canceling Claims 1-30, and adding new Claims 31-36. The Patent Application Information Retrieval system (PAIR) indicates that the Office has received and entered this Amendment into the file wrapper.**

Accordingly, Applicant respectfully requests the Examiner to issue a new Office Action addressing the pending claims. As it is believed that the Double Patenting rejection presently applied to Claims 1-4 is likely to be applied to Claims 31-36, Applicants provide a Terminal Disclaimer herein to facilitate the allowance of this application; Claims 1-4 stand rejected under the judicially created Doctrine of Obviousness-type double patenting as being unpatentable over Claim 1 of Watanabe et al. (U.S. Patent No. 6,310,897, hereinafter Watanabe)

### INFORMATION DISCLOSURE FILINGS

Applicants filed two Information Disclosure Statements (IDSs), which have not yet been acknowledged as being ~~considered~~ by the Examiner, namely on August 3, 2001 and on April 17, 2002. A courtesy copy of papers filed are hereto attached, as well as their corresponding date-stamped filing receipt. Applicants respectfully request the Examiner to acknowledge consideration of said IDSs by initialing Applicants' PTO-1449 forms, and returning same to Applicants' representative.

DOUBLE-PATENTING

As outlined above, Applicants will treat this rejection as if applied to pending Claims 31-36.

Applicants have filed herewith a Terminal Disclaimer.

The filing of a Terminal Disclaimer to obviate a rejection based on nonstatutory double patenting is not an admission of the propriety of the rejection. The "filing of a Terminal Disclaimer simply serves the statutory function of removing the rejection of double patenting, and raises neither a presumption nor estoppel on the merits of the rejection." Quad Environmental Technologies Corp. v. Union Sanitary District, 946 F.2d 870, 20 U.S.P.Q.2d 1392 (Fed. Cir. 1991). Accordingly, Applicants filing of the attached disclaimer is provided for facilitating a timely resolution to prosecution only, and should not be interpreted as an admission as to the merits of the obviated rejection.

CONCLUSION

Consequently, in view of the foregoing amendment and remarks, it is respectfully submitted that the present Application, including Claims 31-36, is patently distinguished over the prior art, in condition for allowance, and such action is respectfully requested at an early date.

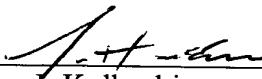
Respectfully submitted,  
OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, P.C.

Customer Number  
**22850**

Tel: (703) 413-3000  
Fax: (703) 413 -2220  
(OSMMN 06/04)

JJK:SAM:ycs

I:\ATTY\SAM\PROSECUTION WORK\211559\REQ FOR RECONSID DUE 28JUNE05.DOC

  
\_\_\_\_\_  
James A. Kulbaski  
Attorney of Record  
Registration No. 34,648

Scott A. McKeown  
Registration No. 40,866